

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN**

SHIRLEY HYMAN, individually and
on behalf of all others similarly situated,

Plaintiff,

v.

TV GUIDE MAGAZINE, LLC, a
Delaware limited liability company,

Defendant.

Case No.: 2:15-cv-13769

Hon. Stephen J. Murphy, III

Magistrate Judge Mona K. Majzoub

**JOINT STIPULATION PERMITTING LIMITED JURISDICTIONAL
DISCOVERY AND ENLARGEMENT OF BRIEFING SCHEDULE FOR
DEFENDANT’S SECOND AMENDED MOTIONS TO DISMISS AND STAY**

Plaintiff Shirley Hyman alleges that the Court has subject matter jurisdiction over this action pursuant to the Class Action Fairness Act (“CAFA”), 28 U.S.C. § 1332(d), because at least one class member is a citizen of a state different than Defendant TV Guide Magazine, LLC, and the amount in controversy exceeds \$5 million. (Dkt. 1, Compl. ¶ 9.) In its Second Amended Motions to Dismiss and Stay (the “Amended Motions”), Defendant argues that the Court lacks CAFA jurisdiction because (i) its “nerve center” is located in Michigan, and thus there is no diversity between it and the putative class of Michigan citizens, and (ii) Plaintiff has not articulated a legally cognizable theory of actual damages, and thus cannot satisfy the \$5 million jurisdictional minimum in the event that statutory damages

are found to be unavailable under the Michigan Preservation of Personal Privacy Act. To support its “nerve center” argument, Defendant attached outside testimony in the form of two sworn affidavits by Lawrence MacKenzie and Paul Turcotte. Defendant submitted no evidence to support its jurisdictional minimum argument because that argument is based on law rather than fact.

On June 1, 2016, the Parties had a teleconference with the Court and discussed Plaintiff’s need to conduct (and the timing for conducting) limited jurisdictional discovery with respect to the Amended Motions. Pursuant to that conference and counsels’ efforts to—as quickly as possible—complete (i) the depositions of Lawrence MacKenzie and Paul Turcotte and (ii) the briefing on the Amended Motions, the Parties hereby stipulate and agree, subject to Court approval, as follows:

1. Defendant shall produce documents responsive to Plaintiff’s jurisdictional-related document requests, which were served on May 25, 2016, by June 8, 2016 (with the exception of Plaintiff’s request number 5).
2. Plaintiff shall depose affiants Lawrence MacKenzie and Paul Turcotte on the “nerve center” issue on June 16, 2016 in New York City, New York.
3. Plaintiff shall file her combined response to the Amended Motions by June 30, 2016.
4. Defendant shall file its reply brief in support of the Amended Motions

by July 7, 2016.

5. This stipulation is not being filed for purposes of delay and is instead intended to promote efficiency.

STIPULATED AND AGREED:

SHIRLEY HYMAN, individually and
on behalf of all others similarly situated,

By: /s/ Benjamin S. Thomassen
One of Plaintiff's Attorneys

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Class*

TV GUIDE MAGAZINE, LLC,

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One of Defendant's Attorneys

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Magistrate Judge Mona K. Majzoub

**ORDER PERMITTING LIMITED JURISDICTIONAL DISCOVERY
AND ENLARGEMENT OF BRIEFING SCHEDULE FOR DEFENDANT'S
SECOND AMENDED MOTIONS TO DISMISS AND STAY**

Upon review of the agreement of the parties, the Court approves the
Stipulation Permitting Limited Jurisdictional Discovery and Enlargement of the
Briefing Schedule for Defendant's Second Amended Motions to Dismiss and Stay.

SO ORDERED.

S/Stephen J. Murphy, III
Stephen J. Murphy, III
United States District Judge

Dated: June 13, 2016

I hereby certify that a copy of the foregoing document was served upon the parties and/or
counsel of record on June 13, 2016, by electronic and/or ordinary mail.

S/Carol Cohron
Case Manager